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August 3

Mr. James J. Barry, Commissioner  
Department of Public Welfare  
State House Annex  
Concord, New Hampshire

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SEP 22 1998

CONCORD, N.H.

Re: Determination of Residence --  
Josephine Stickney Closed OAA Laconia

Dear Mr. Barry:

This is in response to your request of July 26, 1956, for our opinion as to whether Josephine Stickney, applicant for Old Age Assistance, satisfies the residence requirement of RSA 167:6.

You advise that on November 15, 1954, the applicant disposed of her few personal belongings in New Hampshire and went to Florida to live with a daughter who did not consider her mother's New Hampshire living conditions adequate. Shortly after arriving in Florida the applicant decided that conditions there did not agree with her and she determined to return to New Hampshire at her first opportunity. Because her physical condition did not permit her to make the trip alone she did not return to New Hampshire until July 2, 1956.

Among other conditions which must be met to qualify an applicant for Old Age Assistance is the requirement that he must have "resided in this state continuously for one year immediately preceding said application." RSA 167:6

It is the opinion of this office that Josephine Stickney has not resided in this state continuously for one year immediately preceding application and that she is not eligible for Old Age Assistance at this time.

Mr. James J. Barry

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In order to establish a domicile once abandoned, something more than an intention to return is required. Falker v. Henderson, 78 N.H. 509. Physical presence of the individual is also essential. Both of these conditions must coincide before a residence is acquired. Restatement, Conflicts of Laws, s. 16.

Very truly yours,

Elmer T. Bourque  
Assistant Attorney General

ETB/T